



**ZONING ADMINISTRATOR  
NOTICE OF DECISION**

**Date:** June 5, 2014  
**Applicant:** Adamy, Inc.  
**Case No.:** PCC-14-022  
**Address:** 601 East Palomar Street, Suite C-2, Chula Vista, Ca.  
**A.P.N.:** 641-122-18-00  
**Project Planner:** Richard Zumwalt, A.I.C.P., Associate Planner

Notice is hereby given that on June 4, 2014, the Zoning Administrator considered a Conditional Use Permit (PCC-14-022) application filed by Marco Polo Cortes on behalf of Adamy, Inc. ("Applicant") to allow the on-site sale and consumption of beer and wine at the proposed TJ Oyster Bar Restaurant ("Project"). The restaurant will operate from 8 am to 12 am (midnight), seven days a week. The restaurant is located in an existing 1,739 square foot suite in a multi-tenant commercial building at the Plaza at Sunbow Shopping Center at 601 East Palomar Street, Suite C-2 ("Project Site"). The restaurant and shopping center are located at the northeast corner of East Palomar Street and Medical Center Drive in Chula Vista, Ca. The Property is owned by Levon Investments, LLC ("Property Owner"). The site has a zoning designation of Village Commercial (VC) of the Sunbow II SPA Plan Planned Community (PC) District Regulations. Pursuant to the Sunbow II SPA Plan PC District Regulations, restaurants which include service of alcoholic beverages are permitted subject to the approval of a Conditional Use Permit.

The Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project qualifies for a Class 1 Categorical Exemption pursuant to 15301 (Existing Facilities) of the State CEQA Guidelines. The proposed project consists of negligible or no expansion of an existing use. Thus, no further environmental review is necessary.

The Zoning Administrator, under the provisions of Section 19.14.030.A of the Chula Vista Municipal Code, has been able to make the following Conditional Use Permit findings as required by CVMC Section 19.14.080:

***That the proposed use at this location is necessary or desirable and will contribute to the general well being of the neighborhood or the community.***

The proposed full-service restaurant would be located within a neighborhood commercial center with retail commercial and restaurant uses. The restaurant is located adjacent to other restaurants and cafes and an outdoor seating plaza. The full-service restaurant will also include service of alcoholic beverages including beer and wine only. The addition of the sale of beer and wine is desirable because it will provide a full dining experience that will enhance the business and provide additional enjoyment for restaurant customers. Thus, the restaurant would provide desirable dining opportunities for area residents at the Plaza at Sunbow Shopping Center. The

proposed restaurant use is consistent with the types of uses that would be found within the commercial center.

***That such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.***

The restaurant would be located within the Plaza at Sunbow Shopping Center, a neighborhood commercial center designed for this and other complimentary food, entertainment and retail uses, which provides adequate parking to serve the Project. The restaurant and shopping center are located at the northeast corner of East Palomar Street and Medical Center Drive. The surrounding neighborhood includes existing single-family areas directly across Medical Center Drive from the shopping center building that supports the project. The restaurant is located adjacent to other restaurants and cafes near an outdoor seating plaza. The shopping center building and outdoor seating plaza are situated at a higher elevation, overlooking the surrounding residential area. However the restaurant faces the shopping center parking lot and not the outdoor plaza. Because of the grade separation of the shopping center from these residential areas, and the fact that the restaurant faces towards the internal parking lot, any activities associated with the restaurant should not affect the surrounding residents. In addition, the Project includes conditions of approval which will ensure that consumption of alcoholic beverages will not adversely affect the surrounding business or residents. The applicant is also required to obtain an Alcoholic Beverage Control license from the State of California Alcoholic Beverage Control Commission (ABC) in compliance with all applicable state and local regulations. The sales and consumption of alcoholic beverages, including hours of alcohol sales and audible noise, are also regulated by conditions of approval of the ABC license. Thus, the potential for noise and public disturbances generated by the Project would be minimized and would not adversely affect the adjacent residential community.

***That the proposed use will comply with the regulations and conditions specified in the code for such use.***

Granting of this conditional use permit is conditioned to require the Applicant and Property Owner to fulfill the conditions of approval and to comply with all applicable regulations and standards specified in the Municipal Code for such use. These conditions will be enforced through inspections prior to occupancy of the use and subsequent to operation of the business. Furthermore, the conditions of this permit are approximately in proportion to the nature and extent of the impact created by the project in that the conditions imposed are directly related to, and of a nature and scope related to the size and impact of the project. The project will comply with all regulations and conditions specified in the Zoning Code for uses established under PCC-14-022. The applicant is required to obtain a Type 41 Alcoholic Beverage Control license from the State of California Alcoholic Beverage Control Commission (ABC) for the sales of alcohol, limited to the sale of beer and wine only, in compliance with all applicable state and local regulations.

***That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.***

The General Plan designates the site as Commercial Retail, which permits Retail Commercial land uses such as restaurants. Restaurants serving alcoholic beverages are consistent with Village Commercial PC District Zone land uses upon approval of a Conditional Use Permit. Thus, the proposed Project is consistent with the General Plan – land use element, and the Sunbow II SPA Plan and PC District Regulations, and will not adversely affect the implementation of the City's General Plan.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit PCC-14-022 as described above, subject to the conditions listed below. The following conditions shall apply to the Project Site, and the Applicant or successor-in-interest shall satisfy these conditions prior to issuance of the first building permit for the project, or at the timeframe specified in the condition:

#### DEVELOPMENT SERVICES DEPARTMENT

##### Planning Division:

The following conditions of approval shall be satisfied by the Applicant prior to use or occupancy of the Conditional Use Permit, or at the timeframe specified in the condition:

1. The Project Site shall be developed and maintained in accordance with the approved PCC-14-022 plans, which include the site plan and floor plan submitted April 10, 2014, subject to the following conditions contained herein, and the Zoning Ordinance (Title 19).
2. The Property Owner and Applicant or authorized representative shall execute this document by making a true copy of this Notice of Decision and signing both this original notice and the copy on the lines provided below, said execution indicating that the Property Owner and the Applicant have each read, understood and agreed to the conditions and land use operation modifications contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document prior to submittal for building permits to the Development Services Department shall indicate the Property Owner's and Applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

3. The applicant shall obtain an alcoholic beverage control license from the State of Ca. ABC prior to commencement of sale of alcoholic beverages. The Applicant shall comply with the applicable State ABC Laws and City Ordinances, and all conditions

required by the Chula Vista Police Department pertaining to the sale and consumption of alcoholic beverages.

4. Prior to operation of the restaurant and the sale of beer and wine, the Applicant shall obtain issuance of Building Permit B14-0467 to the satisfaction of the Development Services Department's Building, Engineering and Planning Divisions, and the Chula Vista Fire Department.
5. Applicant shall obtain approval of a Sign Permit from the City for construction or modification of any proposed signs.

**Building Division:**

6. Prior to final inspection, the Applicant shall comply with the approved Building Permit B14-0467 requirements to the satisfaction of the Development Services Department's Building, Engineering and Planning Divisions, and the Chula Vista Fire Department.
7. The Building Permit shall comply with all applicable codes and requirements, including but not limited to the 2013 California Building Code (CBC) and Ca Handicapped Accessibility requirements, 2013 California Electrical Code, 2013 Fire Code, 2013 California Energy Code, and 2013 California Green Building Standards, as adopted and amended by the State of California and City of Chula Vista. Approval from the Planning, Engineering or Fire Department is required prior to permit issuance.

**FIRE DEPARTMENT**

8. The applicant shall apply for the required building permits for the proposed commercial tenant improvement. Permits shall comply with applicable codes and requirements, including but not limited to: the current California edition of Building Code (CBC), Fire Code (CFC), Mechanical Code, and Residential Code as adopted and amended by the State of California and the City of Chula Vista.

Upon certification by the Development Services Department for occupancy or establishment of use allowed by this Conditional Use Permit, the following conditions shall apply:

**POLICE DEPARTMENT**

9. Sales, service and consumption of alcoholic beverages shall be limited to beer and wine only.
10. Sales, service and consumption of alcoholic beverages shall only be permitted inside the premises between the hours of 8:00 AM and 12:00 AM (midnight) each day of the week.
11. There shall be no dancing conducted on the premises.

12. The premises shall be maintained as a bona fide food restaurant and shall provide a menu containing an assortment of foods normally offered in such restaurants.
13. The door(s) shall be kept closed at all times during the operation of the premises except in cases of emergency. Said door(s) not to consist solely of a screen or ventilated security door.
14. A single jukebox or stereo may be maintained upon the premises; however, the music shall not be audible outside the premises
15. There shall be no live entertainment of any type, including but not limited to live music, disc jockey, karaoke, topless entertainment, male or female performers or fashion shows

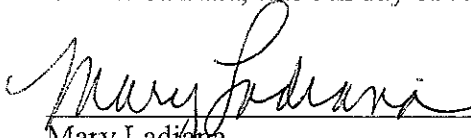
#### DEVELOPMENT SERVICES DEPARTMENT

16. The Project shall operate in compliance with the Performance Standards, CVMC Chapters 19.66 and Performance Standards and Noise Control, Chapter 19.68.
17. This Conditional Use Permit authorizes only the operation of a restaurant with on-site sales of beer and wine only. Any new use, modification or expansion of the approved use, live entertainment, amendment of the approved ABC license, or activities not authorized under this Conditional Use Permit shall be subject to the review and approval of the Zoning Administrator.
18. The hours of operation of the restaurant shall be 8:00 a.m. to 12:00 am (midnight) seven days a week.
19. This permit shall become void if not used or extended within three years of the effective date thereof in accordance with Section 19.14.260 of the Chula Vista Municipal Code. Failure to comply with the any conditions of approval shall cause this permit to be reviewed by the City for additional conditions or revocation.
20. If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. The applicant or a successor in interest gains no vested rights by the City's approval of this Conditional Use Permit
21. The Applicant shall and does hereby agree to indemnify, protect, defend and hold harmless City, its Council members, officers, employees, agents and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs,

including court costs and attorneys' fees (collectively, "liabilities") incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this conditional use permit, (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein. Applicant shall acknowledge their agreement to this provision by executing a copy of this conditional use permit where indicated, above. Applicant's compliance with this provision is an express condition of this conditional use permit and this provision shall be binding on any and all of Applicant's successors and assigns.

22. Approval of this Project shall not waive compliance with all sections of Title 19 of the Municipal Code, and all other applicable City Ordinances in effect at the time of approval of this Conditional Use Permit.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,  
CALIFORNIA, this 5th day of June, 2014.

  
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Mary Ladiana,  
Zoning Administrator